**THE HON'BLE SMT. JUSTICE T. MEENA KUMARI**
**and**
**THE HON'BLE SRI JUSTICE G. CHANDRAIAH**

**WRIT PETITION No. 11762 of 2007**
**and**
**WPMP Nos. 17701 and 17702 of 2007**
**and**
**WVMP No. 1468 of 2007**

**O R D E R**: (Per the Hon'ble Smt. Justice T. Meena Kumari)

This writ petition is filed against the order dated 22.3.2007 passed by the A.P. Administrative Tribunal in O.A. No. 3030 of 2005.

The respondent herein filed O.A. No. 3030 of 2005 before the Tribunal seeking to declare the action of the petitioners herein in issuing the proceedings Rc.No.43/R&T/Admn.I/2005 dated 21.5.2005 as illegal and arbitrary and consequently to direct the petitioners herein to appoint him as S.I. (Civil) by conversion from the post of R.S.I. The Tribunal allowed the said O.A. setting aside the proceedings dated 21.5.2005 and directing the petitioners herein to consider the case of the respondent – applicant within the stipulated period and to send him for training along with the next batch. The petitioners filed this writ petition against the said order passed by the Tribunal.

Heard the learned Government Pleader for Services-I for the petitioners and Smt. B. Neeraja Sudhakar Reddy for the respondent and perused the material available on record.

During the pendency of the writ petition, the respondent herein filed WPMP No. 17701 to stay all further

proceedings in pursuance of the proceedings Rc.No.544/R&T/Genl.3/2006-7 dated 30.6.2007 of the 1st petitioner in the writ petition and WPMP No. 17702 of 2007 to direct the petitioners in the writ petition to issue appointment orders to the petitioners and to send him to training along with the persons selected through Rc.No.544/R&T/Genl.3/2006-7 dated 30.6.2007. He also filed WVMP No. 1468 of 207 to vacate the interim suspension dated 8.6.2007 in WPMP No. 14605 of 2007. This Court on 12.7.2007 directed as follows:

> "The present writ petition is filed by the petitioners-authorities questioning the order of the Tribunal in O.A. No. 3030 of 2005 dated 22.3.2007. While admitting the present writ petition, this Court granted interim suspension in WPMP No. 14605 of 2007 on 8.6.2007. Hence, the applicant-respondent herein filed petitions seeking to issue an interim direction as well as to vacate the interim suspension granted by this Court. Heard the learned counsel. In view of the fact that the tribunal has directed the petitioners-authorities to send the applicant – respondent for training, we feel it just and appropriate to direct the authorities to send the applicant-respondent to the training along with the persons appointed on 5.7.2007. However, we make it clear that the applicant-respondent shall not claim any benefit of the training if the petitioners-authorities succeed in the writ petition. With the above observation, the interim suspension granted by this Court on 8.6.2007 is modified. Post all the WPMPs along with the main writ petition after two weeks".

Thus, all the above petitions have been taken up for hearing today.

The case of the petitioners is that to be eligible for appointment by transfer as Sub-Inspectors of Police (Civil) one should have served in District Armed Reserve/Special Armed Reserve, Central Police Lines/City Armed Reserve or A.P. Special Police Battalions for not less than 5 years with a clear record of service and should possess the required educational qualifications and while making selection to the said posts, the service record including punishments, adverse entries, pendency of disciplinary proceedings etc., will also be taken into consideration and as the respondent did not fit into the criteria stipulated for appointment by transfer to the post of Sub-Inspector (Civil), his case was not considered but the Tribunal erroneously passed the impugned order and the same is liable to be set aside.

However, the material available on record discloses that the petitioner has completed the minimum service required for consideration to the post of S.I.(Civil) by conversion and as such he made representation to the authorities expressing his willingness and as his case was not considered, he approached the Tribunal. The ground for not considering the case of the respondent seems to be that the respondent does not have clean record of service as he was unauthorisedly absent from the training. However, the material available on record discloses that the period during which he was said to be unauthorisedly absent was treated as on leave and a minor penalty of censure was imposed. Such minor penalty of censure, as rightly observed by the Tribunal, cannot be taken as the basis for coming to the conclusion that the respondent is not having clean record.

Even with regard to the contention that the respondent was terminated during the probation period for not completing the probation, the Government vide G.O.Ms.No. 108 dated 17.4.2002 already extended his probation period by five days and vide subsequent G.O.Rt.No.32 dated 7.1.2005 the out of employment period of the respondent – applicant was treated as on duty under F.R.54 (2). Therefore, the petitioners cannot review the lapses on the part of the respondent afresh and refuse to consider his case. Further, it is stated by the respondent in the affidavit filed by him to vacate the interim suspension that he has received 23 good service entries, 22 cash rewards and 4 commendation letters in his service. It is also stated that similar person who is listed at Sl.No.3, though awarded with one censure and though it was mentioned that he misbehaved and behaved in an undisciplined manner unbecoming of a police officer and failed to implement the instructions of his superior officers, was selected. Though it cannot be said that the case of the respondent needs to be considered simply because another person with adverse remarks was considered, having regard to the reasons as stated above the petitioners are not justified in rejecting the case of the respondent on the reasons which were already considered and necessary G.Os., were issued by the Government. It is not the case of the petitioners that the respondent does not possess the requisite qualifications or that he has not completed the minimum service as stipulated under the Rules. The reasons taken by the petitioners for rejecting the case of the respondent, having regard to the reasons stated above, are unsustainable and the Tribunal rightly held so.

Having regard to the facts and circumstances, we do not find any reason to interfere with the order passed by the Tribunal

dated 22.3.2007 in O.A. No. 3030 of 2005. The writ petition is accordingly dismissed and the WPMPs and the WVMP are disposed of in the above terms.

Having regard to the submission made by the learned counsel for the respondent that the training course is going to commence from 26th August, 2007, we direct the petitioners to send the respondent for the training which is going to commence from 26th August, 2007. However, we make it clear that any lapse on the part of the respondent during the course of training shall be dealt with in accordance with law.

T. MEENA KUMARI, J.

G. CHANDRAIAH, J.

Date: 24-08-2007.

MVB.